

## **CHAPTER 38-07-02**

### **COMMERCIAL DRIVER TRAINING SCHOOL REQUIREMENTS**

#### **Section**

|             |   |
|-------------|---|
| 38-07-02-01 | License Requirements                            |
| 38-07-02-02 | Location of School                              |
| 38-07-02-03 | Business Records                                |
| 38-07-02-04 | Advertising                                     |
| 38-07-02-05 | Agreements and Contracts                        |
| 38-07-02-06 | Insurance and Safety                            |
| 38-07-02-07 | License Displayed                               |
| 38-07-02-08 | Schedule of Fees and Charges                    |
| 38-07-02-09 | Application and Renewal of School License - Fee |

**38-07-02-01. License requirements.** No commercial driver training school may be established or operated unless such school shall apply for and obtain a license on the form prescribed by the superintendent. A commercial driver training school may be licensed to offer instruction through an internet course only. The superintendent shall issue a license indicating restricted to instruction through "Internet Course Only".

**History:** Effective December 1, 1988; amended effective June 1, 2002.

**General Authority:** NDCC 39-25-03

**Law Implemented:** NDCC 39-06-01.1, 39-25-03

#### **38-07-02-02. Location of school.**

1. No license may be issued for conducting a driver training school from a temporary stand, temporary address, or a room or rooms in a hotel or motel, or through the exclusive facilities of a telephone answering service.
2. The location of the school's principal place of business and branch offices must have adequate facilities, equipment, and available space to meet the approval of the superintendent, and must also be in compliance with all city and municipal ordinances.
3. Each commercial driving school license application or renewal application must be accompanied by a rental or lease agreement covering the time period corresponding to the license year. In case of ownership, a statement verifying ownership of the premises must be attached to the application.

**History:** Effective December 1, 1988.

**General Authority:** NDCC 39-25-02

**Law Implemented:** NDCC 39-25-03

#### **38-07-02-03. Business records.**

1. A permanent record of every person given lessons or services of any kind relating to classroom, behind-the-wheel, or internet course instruction in the operation of a motor vehicle must list the following information:
  - a. Name of student.
  - b. Address of student.
  - c. Date of birth of student.
  - d. Contract number.
  - e. Date and type of lesson.
  - f. Initials or name of instructor.
  - g. Social security or identification number.
2. The contract file must contain the original, subsequent, or renewal contract agreements entered into between the school and the person receiving the lesson or other services relating to the operation of a motor vehicle. Each original, subsequent, and renewal contract must be maintained for a period of not less than three years following instruction.
3. The vehicle file must contain a current list of all vehicles used by the school for driver training purposes showing date and location of the most recent inspection and must include a copy of vehicle lease agreements if applicable.
4. All records must be maintained in a businesslike manner and are subject to the inspection of the superintendent or the superintendent's authorized representative at any time during reasonable business hours. The loss, mutilation, or destruction of records which the school is required to maintain must be reported immediately to the superintendent and must state:
  - a. The date such records were lost, destroyed, or mutilated.
  - b. The circumstances involving such loss, destruction, or mutilation.
  - c. The name of the law enforcement office or fire department officials to whom such loss was reported and the date of such report.

**History:** Effective December 1, 1988; amended effective June 1, 2002.

**General Authority:** NDCC 39-25-03

**Law Implemented:** NDCC 39-06-01.1, 39-25-03

#### **38-07-02-04. Advertising.**

1. Commercial driver training schools may not:
  - a. Publish, advertise, or intimate that a driver's license is guaranteed or assured.
  - b. Duplicate or reproduce (in whole or in part) for use in advertising or instruction any forms used by the North Dakota highway patrol in the driver licensing function without specific approval of the superintendent.
  - c. Advertise or intimate that a commercial driver's or instructor's license encompasses certification by the North Dakota department of public instruction.
  - d. Advertise the address of any location other than the authorized principal place of business or licensed branch office.
2. Any advertising conducted for the internet course must include the language:

"This course is approved for instruction in North Dakota pursuant to North Dakota Century Code section 39-06-01.1 and North Dakota Administrative Code article 38-07."

**History:** Effective December 1, 1988; amended effective June 1, 2002.

**General Authority:** NDCC 39-25-02

**Law Implemented:** NDCC 39-06-01.1, 39-25-03

#### **38-07-02-05. Agreements and contracts.**

1. All contracts between schools and students must be on a form approved by the superintendent. The contract must include:
  - a. The name, date of birth, and address of the student.
  - b. The kind of training provided.
  - c. Approved vehicles to be used for instruction.
  - d. The number of hours of instruction and the rate per hour.
  - e. The signature of the student or other authorized person, or both, except an electronic contract is acceptable for the internet course only.
  - f. The date of the contract.

2. A contract may not exceed a maximum of ten hours, or for truck tractor, a maximum of three hundred twenty hours, of behind-the-wheel training without execution of a new contract.
3. A person may not be given lessons or any other service relating to instruction of motor vehicle operation unless and until a written contract has been executed between the school and the student. An electronic contract is acceptable for the internet course only.
4. Each school shall file and maintain with the superintendent a list of those persons authorized on behalf of the school to execute contracts or renewal agreements and certificates of enrollment and completion. A complete signature record form must be filed with the superintendent for each person authorized to sign the above-listed documents for the school.
5. No school may represent or agree orally or in writing to give instruction until a driver's license is obtained, to give free lessons, or to offer premiums or provide discounts if a driver's license is not obtained.
6. No owner, operator, instructor, or other employee of a commercial driver training school may:
  - a. Attempt to influence any decision of an examining officer with respect to the licensing of any student of the school or any other person.
  - b. Imply to the student or other person for any purpose their ability to influence in any manner the driver license examiners.

**History:** Effective December 1, 1988; amended effective April 1, 1992; June 1, 2002.

**General Authority:** NDCC 39-25-02

**Law Implemented:** NDCC 39-06-01.1, 39-25-03

### **38-07-02-06. Insurance and safety.**

1. The licensee shall file with the superintendent evidence of liability insurance obtained from a company authorized to do business in the state of North Dakota. Proof of insurance is required for each vehicle used for driver training in the amount of:
  - a. At least one hundred thousand dollars because of bodily injury to or death of any one person in any one accident.
  - b. At least three hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident.

- c. At least twenty-five thousand dollars because of damage to or destruction of property of others in any one accident.
  - d. At least thirty thousand dollars for medical expenses regardless of liability.
- 2. The licensee shall furnish evidence of such coverage to the superintendent stipulating that such insurance will not be canceled or terminated except upon ten days' prior written notice to the superintendent.
- 3. In the event such insurance is canceled or terminated, the school license certificate shall terminate automatically. All vehicles used in the operation of the school may not thereafter be used for driver training school purposes until such school obtains adequate insurance coverage and said license is reenacted. School certificates terminated under the provision of this section must be surrendered to the superintendent within a period of ten days.
- 4. The commercial driver training school owner or operator shall secure and submit with the application for license a continuous surety company bond in the principal sum of two thousand five hundred dollars for the protection of the contractual rights of students, undertaken by a company authorized to do business in the state of North Dakota. The concerned surety company may cancel said bond upon giving thirty days' written notice thereof to the superintendent. The surety company must be released of all liability for any breach of any condition of the bond occurring after the effective date of the cancellation.

**History:** Effective December 1, 1988.

**General Authority:** NDCC 39-25-02

**Law Implemented:** NDCC 39-25-03

**38-07-02-07. License displayed.** The license to operate a commercial driver training school must be displayed in a conspicuous location in the licensee's principal place of business and each branch office.

**History:** Effective December 1, 1988.

**General Authority:** NDCC 39-25-03

**Law Implemented:** NDCC 39-25-03

**38-07-02-08. Schedule of fees and charges.** Commercial driver training applications must be accompanied by a schedule of maximum fees and charges. The schedule of fees and charges may be amended at any time by the licensee provided that such changes in the fee schedule are filed with the superintendent

not less than ten days before they become effective. A fee designated and set forth in a contract must be adhered to for the duration of that contract.

**History:** Effective December 1, 1988.

**General Authority:** NDCC 39-25-03

**Law Implemented:** NDCC 39-25-03

**38-07-02-09. Application and renewal of school license - Fee.** All licenses expire on the last day of the calendar year and may be renewed upon application to the superintendent as prescribed. Each application for an original or renewal school license must be accompanied by a fee of twenty-five dollars. No license fees may be refunded in the event any license is rejected, suspended, or revoked. All renewal applications that are not on file and approved prior to January first of each year will be rejected for the remainder of that calendar year.

**History:** Effective December 1, 1988.

**General Authority:** NDCC 39-25-02

**Law Implemented:** NDCC 39-25-05